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OCT 14 2003

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE REVIEW OF BELLSOUTH TELECOMMUNICATIONS, INC. PRICE REGULATION PLAN	)))	Case No. 2003-00304

MCI'S COMMENTS

MCI WorldCom Communications, Inc. ("MCI"), by its undersigned counsel and in accordance with the Commission's September 13, 2003 order in this proceeding, submits its comments on BellSouth's proposed modifications to its price regulation plan described in BellSouth's tariff as the Company Transition Regulation Plan ("TRP").

The TRP's stated purposes include "the added flexibility [for BellSouth] to price competitive services...and respond to a changing marketplace", and to "(e)nsure that the potential introduction of competition to all markets in Kentucky is not hindered by the Plan." General Subscriber Services Tariff ("GSST") A36.1.1.B.5 & 7. In addition, under the current TRP BellSouth has permission to lower prices "below long-run incremental cost to meet the equally low price of the competitor." GSST A36.1.3.B.3. Under the plan, BellSouth's intrastate-switched access rates are to mirror the interstate rates. GSST A36.1.3.C.2.

There have been substantial changes since the Commission last reviewed BellSouth's price regulation plan. In the last three (3) years the most significant change to the telecommunications marketplace in Kentucky has been BellSouth's entry into providing in-region interLATA service. What remains the same, however, is that the price that companies pay for use of the networks of BellSouth and other ILECs still depends on who the company is, and how it plans to use the network.[1] For example, as illustrated in attachment A, the price that MCI pays BellSouth to terminate a switched access call is significantly higher than the price that other companies pay BellSouth to do *exactly* the same thing. As such, it is axiomatic that these rate differences have no basis in economic cost, and the fact that such rate differences exist demonstrates that BellSouth maintains market power sufficient to permit rate discrimination.[2]

This matter is now of critical importance due to BellSouth's entry into the interLATA market because it is able to levy above-cost inter-carrier compensation charges on competitors, while enjoying cost-based access itself and retail pricing flexibility, as described above. Even without considering the effect from a price squeeze resulting from the disparity between access rates and BellSouth's retail prices, the disparity in dollars between access rates ($.002158) and local interconnection switching ($.0011971), when multiplied by millions of minutes each month, is substantial. Meanwhile, BellSouth proposes that this disparate treatment of inter-carrier rates for essentially the same function continue in perpetuity.

The issue, then, is really a symptom of a larger problem – that traditional regulatory policies concerning compensation for communications services are structurally flawed in today's competitive environment. With the bundling of different types of

1 This situation is analogous to the price of a hammer at a hardware store depending on what side of the railroad tracks the customer comes from and whether the customer plans on using the hammer to build a house or build a fence.

2 See, e.g., *Access Charge Reform*, First Report and Order, 12 FCC Rcd. 15982 ¶¶ 344-45 (1997).

services by innovative carriers and the increasing use of information services, disparate rates based solely on outmoded definitions make little sense. Indeed, only a uniform compensation scheme predicated on economic costs can be sustained and defended as competitively and technologically neutral. The current inter-carrier compensation regime is untenable, inequitable, and is increasingly anti-competitive.

Regulators today are charged with establishing and enforcing policies that encourage market forces to meet consumers' needs in innovative and cost-effective ways. Such policies must embrace the task of regulating bottleneck facilities such as the "last mile," because it is through control of such facilities that ILECs exercise their substantial market power to the detriment of competition. Moreover, policymakers must embrace the concept of regulating bottleneck facilities, such as the last mile, and not the services being provided over the bottleneck facilities.

The optimal solution, then, is to discard this outdated patchwork of inter-carrier compensation rules for a simple, rational, cost-causative, *technology-neutral* approach. This would encourage both the introduction of new telecommunications services and technological innovation. The current, flawed inter-carrier compensation regime embodied in the TRP should be reformed substantially so that compensation is always based on economic costs instead of on the basis of artificial constructs such as jurisdiction, market sector or technology being used to deliver the telecommunications traffic. The key to a rational and sustainable compensation regime is that the chosen methodology applies to *all* traffic regardless of its jurisdiction. Indeed, the goal of reform is to eliminate artificial distinctions among different types of traffic and to create a uniform inter-carrier compensation regime such as a single cost-based per-minute charge for call termination, or single cost-based rate per connection charge, or bill-and-keep. The current TRP thwarts this goal by excluding access services from the Industrial service category. Consequently, before BellSouth is allowed to continue its Plan indefinitely, the Commission should require BellSouth to consolidate access services into the Industrial category and should cause BellSouth to lower its switched access rates to those imposed by it for UNE switching. This review of the TRP presents the opportunity for the Commission to undertake reform of the existing inter-carrier compensation regime, to ensure that rates are based on economic cost.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing was served this 10th day of October, 2003, first class, United States mail, postage prepaid, upon all parties identified on the Commission's service list in Case No. 2003-00304.

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Attachment A

EXISTING RATE DISCRIMINATION

SCENARIO	INTERCONNECTED COMPANY	ACTION	BELLSOUTH CHARGE CENTS/PER MINUTE
1	MCI	HANDS OFF INTERSTATE CALL FOR TERMINATION	0.4807
2	MCI	HANDS OFF INTRASTATE CALL FOR TERMINATION	[redacted]
3	CINGULAR	HANDS OFF INTERSTATE CALL FOR TERMINATION	0.0700
4	CINGULAR	HANDS OFF INTRASTATE CALL FOR TERMINATION	[redacted]
5	EARTHLINK	HANDS OFF INTERNET TRAFFIC FOR TERMINATION	0.0700
6	EARTHLINK	HANDS OFF VoIP CALL FOR TERMINATION	0.0700
7	MCI METRO	HANDS OFF LOCAL CALL FOR TERMINATION	0.1408
8	CABLE CO.	HANDS OFF VOICE OVER CABLE CALL FOR TERMINATION	0.1408
9	ITC	HANDS OFF LOCAL CALL FOR TERMINATION	0.1408

- WHILE THE WORK DONE AND NETWORK USED BY BELLSOUTH IS IDENTICAL, BELLSOUTH CHARGES MCI 600% MORE THAN THEY CHARGE THEIR SUBSIDIARY, CINGULAR,TO TERMINATE AN INTRASTATE CALL.